

## Mullins, Donna

---

**From:** Henson, Tucker  
**Sent:** Friday, May 29, 2015 12:56 PM  
**To:** Nethery, William R MVN  
**Cc:** Heffner, Robert A MVN; Mullins, Donna  
**Subject:** RE: Emailing: 2008-01954-SQ Swain.pdf (UNCLASSIFIED)

There is not an AO pending. We had originally sought an AO on Consent, but Swain refused. Since its been more than 5 years from the original violation, we decided not to issue a unilateral AO.

-----Original Message-----

**From:** Nethery, William R MVN [mailto:William.R.Nethery@usace.army.mil]  
**Sent:** Friday, May 29, 2015 12:48 PM  
**To:** Henson, Tucker  
**Cc:** Heffner, Robert A MVN; Mullins, Donna  
**Subject:** RE: Emailing: 2008-01954-SQ Swain.pdf (UNCLASSIFIED)

Hey Tucker, the JD map we provided to Donna is adequate to avoid wetlands. However, it has only been provided to Donna, and we don't have any JD requests from anyone for any portion of the property at this time. Mr. Swain only provided the erroneous report from Mr. Harris and never did request a determination. I'm curious to know if an AO is pending for the existing violations and if we are able to accept ATF applications from individual lot owners.

Thanks, Bill

William R. Nethery  
US Army Corps of Engineers, New Orleans District Regulatory Branch, Surveillance and Enforcement Section  
(504) 862-1267

-----Original Message-----

**From:** Henson, Tucker [mailto:Henson.Tucker@epa.gov]  
**Sent:** Friday, May 29, 2015 11:43 AM  
**To:** Mullins, Donna; Nethery, William R MVN  
**Subject:** [EXTERNAL] RE: Emailing: 2008-01954-SQ Swain.pdf (UNCLASSIFIED)

PRIVILEGED / CONFIDENTIAL / ATTORNEY WORK PRODUCT

Donna and Bill,

There isn't an AO or other agreement attached to the property that would inhibit transfer of ownership. Determining whether any potential "problems" with the property is the purchaser's obligation, and my advice is that EPA does not comment on this sort of private transaction.

My understanding is that this is NOT a complete JD (Bill--Is this correct?), and not an agency decision upon which a party could rely to avoid agency enforcement. While we used it in our case, the actual liability was established through Bill's affidavit stating that he observed a surface connection. If potential buyers are concerned, Mr. Swain could request an official JD from the Corps, right?

Tucker Henson  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6

1445 Ross Ave. (6RC-EW)  
Dallas, TX 75202  
Tel: (214) 665-8148  
Fax: (214) 665-2182  
henson.tucker@epa.gov

This email may contain material that is confidential, privileged and/or attorney work product and is for the sole use of the intended recipient. Any review, reliance or distribution by others or forwarding without express permission is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.

-----Original Message-----

From: Mullins, Donna  
Sent: Friday, May 29, 2015 10:42 AM  
To: Henson, Tucker  
Subject: FW: Emailing: 2008-01954-SQ Swain.pdf (UNCLASSIFIED)

Tucker,

Is there any problem with Paco Swain selling this property? I think we could give the realtor a copy of the jurisdictional determination from our consultant.?

Donna

-----Original Message-----

From: Heffner, Robert A MVN [mailto:Robert.A.Heffner@usace.army.mil]  
Sent: Friday, May 29, 2015 10:36 AM  
To: Mullins, Donna  
Subject: Emailing: 2008-01954-SQ Swain.pdf (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Donna,

How are you? It has been a long time. I hope this finds you well.

I received a call from a realtor representing a potential buyer of lot 28 in Equestrian Estates. She wanted to know if a jurisdictional determination had been completed. Paco Swain is still associated with the project and was somewhat evasive about answering the realtors questions regarding a JD. Can I provide her with a copy of the map included in the attachment. Are there any resolved issues that prevent Mr. Swain from selling this lot or others at this time?

Thank you for any assistance you can provide.

Rob

Rob Heffner  
Chief, Surveillance and Enforcement Section U.S. Army Corps of Engineers, New Orleans District  
504-862-1288

mailing address:

U.S. Army Corps of Engineers, New Orleans District OD-SS P.O. Box 60267 New Orleans, LA 70160-0267

physical address:

7400 Leake Ave

New Orleans, LA 70118

Your message is ready to be sent with the following file or link attachments:

2008-01954-SQ Swain.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Classification: UNCLASSIFIED

Caveats: NONE

